

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE:

LYNN HOMES, INC.,  
dba JWL CONSTRUCTION CO.,  
dba JWL CONSTRUCTION CO., INC.,

Debtor.

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Case No. 08-23576-ash

Chapter 11

**DECLARATION OF FRANCIS J. SMITH IN OPPOSITION TO DEBTOR'S  
MOTION FOR ORDER EXTENDING PERIODS OF EXCLUSIVITY**

I, Francis J. Smith, do hereby declare as follows:

1. I am a member of the law firm of McNamee, Lochner, Titus & Williams, P.C., attorneys for Trustco Bank, a secured creditor in this case, and I submit this declaration in opposition to the debtor's motion for an order pursuant to 11 USC §1121 extending the exclusivity periods. I submit this declaration in opposition to the debtor's motion to extend the exclusivity periods.
2. The debtor filed a chapter 11 bankruptcy petition on October 29, 2008.
3. The debtor is a builder/developer, and its assets consist of ten vacant building lots and two improved lots in a residential subdivision located in the Village of Pomona, Rockland County. The debtor owed Trustco Bank \$2,671,049.92 as of the filing date, and said indebtedness is secured by a first mortgage lien on all of these assets. Trustco Bank has filed a secured proof of claim, and said proof of claim is incorporated herein.
4. Prior to the bankruptcy filing, Trustco Bank commenced an action in state court against the obligors and guarantors seeking to collect on the notes and guaranties.
5. After the bankruptcy filing, the debtor announced its intention to conduct an auction sale of the real property in the bankruptcy court and to use the proceeds to pay the amounts due to Trustco Bank.

6. At the section 341 hearing on December 17, 2008, the debtor again stated its intention to retain an auctioneer and to conduct an auction of the property. The debtor advised Trustco Bank that it did not want to conduct the auction in December or January because it did not believe that there would not be much interest from potential bidders during the winter months. The debtor advised Trustco that the auction would be conducted in late February or early March.

7. As of the time of the preparation of this declaration, no auction has been scheduled, and it does not appear from the docket that the debtor has even retained an auctioneer.

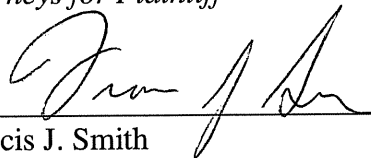
8. The debtor's plan is simply an auction sale of its properties. There is no reason why such a plan could not have moved forward during the months since the filing, and there is no reason that the debtor needs until May to effectuate such a relatively straight forward plan of reorganization or liquidation.

WHEREFORE, Trustco Bank respectfully requests and order denying the debtor's motion to extend the exclusivity period and granting such other and further relief as the Court deems just and proper.

I declare under penalty of perjury and under the laws of the United States of America the foregoing is true and correct, to the best of my knowledge, information and belief.

Dated: March 4, 2009

McNAMEE, LOCHNER, TITUS  
& WILLIAMS, P.C.  
*Attorneys for Plaintiff*

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